

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Sarah Trembley

Respondent

Civil Citation No.75461

8307 Old Harford Road

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on August 11, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-7-112, 115, 309, 310, 312, 201; 13-4-105; 12-3-106; Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1A, 1B01.1D, 421, failure to cease illegal open dump and junkyard conditions, failure to cease illegal dumping of animal waste, failure to cease illegal kennel (special exception required) on residential property zoned DR 5.5 known as 8307 Old Harford Road, 21234.

On July 27, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Kim Wood issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$500.00 (five hundred dollars).

The following persons appeared for the Hearing and testified: Jasmine Reyone, daughter of Respondent Sarah Trembley and Karen Burgess, sister of Respondent, represented by Gary Maslan, Esquire; Albert and Linda Birkebaugh, Neighbors and Complainants represented by Michael May, Esquire; and, Kim Wood, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on April 12, 2010 for removal of untagged/inoperative motor vehicles, removal of junk, trash and debris from property, and removal of goat from residential property. This Citation was issued on July 27, 2010.

B. A previous Citation issued on May 3, 2010 was enforced by Final Order dated August 5, 2010, for improperly housing goats on the property in violation of zoning regulations.

C. Inspector Kimberly Wood testified that this Citation was issued due to other violations observed on July 27, 2010 including open dump, junk yard conditions, piles of soiled animal bedding, vegetable waste in the yard, and animal feces in the yard. She testified that her re-inspection on August 5, 2010 found some of the junk pile had been removed, but wood pallets and feces were still visible, and the soiled animal bedding was still in the yard with fresh mulch on top of it. She testified that she observed three dogs at the property during her visits. Inspector Wood further testified that on August 9, 2010, two days before this Hearing, she met Respondent's daughter at the site and still observed piles of dog feces, vegetable waste around the compost bins, tree debris, and dumped soiled animal bedding apparently from a rabbit hutch. Respondent's attorney, Mr. Maslin, asked if the feces were old or fresh, and Inspector Wood testified that some were fresh and some were not. Inspector Wood further testified that Baltimore County requires daily removal of animal feces.

D. Albert and Linda Berkebaugh live next door. They testified that there is a one foot high pile of feces and animal bedding in the yard along their property line, with mulch on top of it. They testified that the pile was still there the morning of this Hearing. Mrs. Berkebaugh testified that there are numerous animals at Respondent's property and that the smell from animal feces is unbearable and makes their yard unusable. She testified that they have not been able to use their pool this summer because they cannot balance the chlorine due to high phosphate concentrations, and that they have drained the pool three times trying to fix it.

E. Jasmine Reyone testified that she is Respondent's daughter and also lives at this property. She testified that they have three dogs. She testified that she didn't see the food waste by the compost bins and has cleaned it up. She testified that she has cleaned up the dog feces and cleans up every day. Karen Burgess is Respondent's sister. She and Jasmine Reyone testified that eight people live in the house, and that on the property, Respondent has three dogs, three cats, a rabbit, and one lizard. They further testified that soiled animal bedding from cages had been dumped into the yard by another resident in the house but that practice has been stopped. They further testified that the pile of soiled animal bedding was removed and replaced with fresh mulch. Respondent's attorney, Mr. Maslan, submitted a stack of photographs for the record. Jasmine Reyone testified that she took the photographs. The photographs show areas of the yard that appear clean or covered with clean mulch, and also show an animal shelter containing animal bedding and what appears to be animal feces, and piled dead branches and yard waste.

F. Photographs in the file taken by Inspector Wood on July 27, 2010 show junk and debris in the yard, including old tires, plywood, wood pallets, scattered trash and garbage and food waste, and branches and other yard waste. Photographs also show multiple piles of animal feces including dog feces and goat or rabbit waste, and wood shavings from animal and cage bedding. Photographs taken August 9, 2010 show branches and yard waste, soiled animal bedding, trash and garbage, and multiple piles of animal feces including dog feces and goat or rabbit waste. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310. This also constitutes an open dump, which under the County's Zoning Regulations is not a permitted use on this property. BCZR Section 101.1 (Open Dump: "Any land ... on which there is deposit and accumulation, either temporary or permanent, of any kind of organic or inorganic refuse..."). Because feces and other animal waste have the same undesirable characteristics as garbage, including offensive odors, threat to public health, threat to environmental quality, and likelihood to attract rodents, animal waste and soiled animal bedding must be stored in the same manner as garbage, namely in approved rodent-resistant, watertight containers with tight-fitting lids. Respondent has failed to comply with this requirement, and this Citation will be enforced.

G. Because compliance is the goal of code enforcement, and some cleanup has been done, the civil penalty will be reduced if the remaining violations are corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$200.00 (two hundred dollars) if the violations are corrected by August 30, 2010, with all junk, trash and debris and yard waste removed; all soiled and used animal bedding removed; all animal feces removed.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 5th day of August 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.